

1 AN ACT concerning anatomical gifts.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 2310-330 as follows:

7 (20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)

8 Sec. 2310-330. Sperm and tissue bank registry; AIDS test
9 for donors; penalties.

10 (a) The Department shall establish a registry of all
11 sperm banks and tissue banks operating in this State. All
12 sperm banks and tissue banks operating in this State shall
13 register with the Department by May 1 of each year. Any
14 person, hospital, clinic, corporation, partnership, or other
15 legal entity that operates a sperm bank or tissue bank in
16 this State and fails to register with the Department pursuant
17 to this Section commits a business offense and shall be
18 subject to a fine of \$5000.

19 (b) All donors of semen for purposes of artificial
20 insemination, or donors of corneas, bones, organs, or other
21 human tissue for the purpose of injecting, transfusing, or
22 transplanting any of them in the human body, shall be tested
23 for evidence of exposure to human immunodeficiency virus
24 (HIV) and any other identified causative agent of acquired
25 immunodeficiency syndrome (AIDS) at the time of or after the
26 donation but prior to the semen, corneas, bones, organs, or
27 other human tissue being made available for that use.
28 However, when in the opinion of the attending physician of
29 the recipient the life of a recipient of a bone, organ, or
30 other human tissue donation would be jeopardized by delays
31 caused by testing for evidence of exposure to HIV and any

1 other causative agent of AIDS, testing shall not be required.

2 (c) No person may intentionally, knowingly, recklessly,
3 or negligently use the semen, corneas, bones, organs, or
4 other human tissue of a donor unless the requirements of
5 subsection (b) have been met. No person may intentionally,
6 knowingly, recklessly, or negligently use the semen, corneas,
7 bones, organs, or other human tissue of a donor who has
8 tested positive for exposure to HIV or any other identified
9 causative agent of AIDS. Violation of this subsection (c)
10 shall be a Class 4 felony.

11 (d) For the purposes of this Section, "human tissue"
12 shall not be construed to mean organs or whole blood or its
13 component parts.

14 For the purposes of this Section, "tissue bank" has the
15 same meaning as set forth in the Illinois Anatomical Gift
16 Act. ~~means--any--facility--or--program--that--is--involved--in~~
17 ~~procuring, furnishing, donating, processing, or distributing~~
18 ~~corneas, bones, organs, or other human tissue for the purpose~~
19 ~~of injecting, transfusing, or transplanting any of them in~~
20 ~~the human body.~~

21 (Source: P.A. 91-239, eff. 1-1-00.)

22 Section 10. The School Code is amended by changing
23 Section 27-23.5 as follows:

24 (105 ILCS 5/27-23.5)

25 Sec. 27-23.5. Organ/tissue donor and transplantation
26 programs. Each school district that maintains grades 9 and
27 10 may include in its curriculum and teach to the students of
28 either such grade one unit of instruction on organ/tissue
29 donor and transplantation programs. No student shall be
30 required to take or participate in instruction on
31 organ/tissue donor and transplantation programs if a parent
32 or guardian files written objection thereto on constitutional

1 grounds, and refusal to take or participate in such
2 instruction on those grounds shall not be reason for
3 suspension or expulsion of a student or result in any
4 academic penalty.

5 The regional superintendent of schools in which a school
6 district that maintains grades 9 and 10 is located shall
7 obtain and distribute make-available to each the school in
8 his or her ~~board-of-the~~ district information and data that
9 may be used by the school ~~district~~ in developing a unit of
10 instruction under this Section. However, each school board
11 shall determine the minimum amount of instructional time that
12 shall qualify as a unit of instruction satisfying the
13 requirements of this Section.

14 (Source: P.A. 90-635, eff. 7-24-98.)

15 Section 15. The Hospital Licensing Act is amended by
16 changing Sections 6.16 and 10.4 as follows:

17 (210 ILCS 85/6.16)

18 Sec. 6.16. Agreement with designated organ procurement
19 agency. Each hospital licensed under this Act shall have an
20 agreement with its federally designated organ procurement
21 agency providing for notification of the organ procurement
22 agency when potential organ donors become available, as
23 required in Section 5-25 of the Illinois Anatomical Gift Act
24 ~~2-of-the-Organ-Donation-Request-Act~~.

25 (Source: P.A. 89-393, eff. 8-20-95.)

26 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

27 Sec. 10.4. Medical staff privileges.

28 (a) Any hospital licensed under this Act or any hospital
29 organized under the University of Illinois Hospital Act
30 shall, prior to the granting of any medical staff privileges
31 to an applicant, or renewing a current medical staff member's

1 privileges, request of the Director of Professional
2 Regulation information concerning the licensure status and
3 any disciplinary action taken against the applicant's or
4 medical staff member's license, except for medical personnel
5 who enter a hospital to obtain organs and tissues for
6 transplant from a deceased donor in accordance with the
7 Illinois Uniform Anatomical Gift Act. The Director of
8 Professional Regulation shall transmit, in writing and in a
9 timely fashion, such information regarding the license of the
10 applicant or the medical staff member, including the record
11 of imposition of any periods of supervision or monitoring as
12 a result of alcohol or substance abuse, as provided by
13 Section 23 of the Medical Practice Act of 1987, and such
14 information as may have been submitted to the Department
15 indicating that the application or medical staff member has
16 been denied, or has surrendered, medical staff privileges at
17 a hospital licensed under this Act, or any equivalent
18 facility in another state or territory of the United States.
19 The Director of Professional Regulation shall define by rule
20 the period for timely response to such requests.

21 No transmittal of information by the Director of
22 Professional Regulation, under this Section shall be to other
23 than the president, chief operating officer, chief
24 administrative officer, or chief of the medical staff of a
25 hospital licensed under this Act, a hospital organized under
26 the University of Illinois Hospital Act, or a hospital
27 operated by the United States, or any of its
28 instrumentalities. The information so transmitted shall be
29 afforded the same status as is information concerning medical
30 studies by Part 21 of Article VIII of the Code of Civil
31 Procedure, as now or hereafter amended.

32 (b) All hospitals licensed under this Act, except county
33 hospitals as defined in subsection (c) of Section 15-1 of the
34 Illinois Public Aid Code, shall comply with, and the medical

1 staff bylaws of these hospitals shall include rules
2 consistent with, the provisions of this Section in granting,
3 limiting, renewing, or denying medical staff membership and
4 clinical staff privileges. Hospitals that require medical
5 staff members to possess faculty status with a specific
6 institution of higher education are not required to comply
7 with subsection (1) below when the physician does not possess
8 faculty status.

9 (1) Minimum procedures for pre-applicants and
10 applicants for medical staff membership shall include the
11 following:

12 (A) Written procedures relating to the
13 acceptance and processing of pre-applicants or
14 applicants for medical staff membership, which
15 should be contained in medical staff bylaws.

16 (B) Written procedures to be followed in
17 determining a pre-applicant's or an applicant's
18 qualifications for being granted medical staff
19 membership and privileges.

20 (C) Written criteria to be followed in
21 evaluating a pre-applicant's or an applicant's
22 qualifications.

23 (D) An evaluation of a pre-applicant's or an
24 applicant's current health status and current
25 license status in Illinois.

26 (E) A written response to each pre-applicant
27 or applicant that explains the reason or reasons for
28 any adverse decision (including all reasons based in
29 whole or in part on the applicant's medical
30 qualifications or any other basis, including
31 economic factors).

32 (2) Minimum procedures with respect to medical
33 staff and clinical privilege determinations concerning
34 current members of the medical staff shall include the

1 following:

2 (A) A written notice of an adverse decision.

3 (B) An explanation of the reasons for an
4 adverse decision including all reasons based on the
5 quality of medical care or any other basis,
6 including economic factors.

7 (C) A statement of the medical staff member's
8 right to request a fair hearing on the adverse
9 decision before a hearing panel whose membership is
10 mutually agreed upon by the medical staff and the
11 hospital governing board. The hearing panel shall
12 have independent authority to recommend action to
13 the hospital governing board. Upon the request of
14 the medical staff member or the hospital governing
15 board, the hearing panel shall make findings
16 concerning the nature of each basis for any adverse
17 decision recommended to and accepted by the hospital
18 governing board.

19 (i) Nothing in this subparagraph (C)
20 limits a hospital's or medical staff's right to
21 summarily suspend, without a prior hearing, a
22 person's medical staff membership or clinical
23 privileges if the continuation of practice of a
24 medical staff member constitutes an immediate
25 danger to the public, including patients,
26 visitors, and hospital employees and staff. A
27 fair hearing shall be commenced within 15 days
28 after the suspension and completed without
29 delay.

30 (ii) Nothing in this subparagraph (C)
31 limits a medical staff's right to permit, in
32 the medical staff bylaws, summary suspension of
33 membership or clinical privileges in designated
34 administrative circumstances as specifically

1 approved by the medical staff. This bylaw
2 provision must specifically describe both the
3 administrative circumstance that can result in
4 a summary suspension and the length of the
5 summary suspension. The opportunity for a fair
6 hearing is required for any administrative
7 summary suspension. Any requested hearing must
8 be commenced within 15 days after the summary
9 suspension and completed without delay. Adverse
10 decisions other than suspension or other
11 restrictions on the treatment or admission of
12 patients may be imposed summarily and without a
13 hearing under designated administrative
14 circumstances as specifically provided for in
15 the medical staff bylaws as approved by the
16 medical staff.

17 (iii) If a hospital exercises its option
18 to enter into an exclusive contract and that
19 contract results in the total or partial
20 termination or reduction of medical staff
21 membership or clinical privileges of a current
22 medical staff member, the hospital shall
23 provide the affected medical staff member 60
24 days prior notice of the effect on his or her
25 medical staff membership or privileges. An
26 affected medical staff member desiring a
27 hearing under subparagraph (C) of this
28 paragraph (2) must request the hearing within
29 14 days after the date he or she is so
30 notified. The requested hearing shall be
31 commenced and completed (with a report and
32 recommendation to the affected medical staff
33 member, hospital governing board, and medical
34 staff) within 30 days after the date of the

1 medical staff member's request. If agreed upon
2 by both the medical staff and the hospital
3 governing board, the medical staff bylaws may
4 provide for longer time periods.

5 (D) A statement of the member's right to
6 inspect all pertinent information in the hospital's
7 possession with respect to the decision.

8 (E) A statement of the member's right to
9 present witnesses and other evidence at the hearing
10 on the decision.

11 (F) A written notice and written explanation
12 of the decision resulting from the hearing.

13 (F-5) A written notice of a final adverse
14 decision by a hospital governing board.

15 (G) Notice given 15 days before implementation
16 of an adverse medical staff membership or clinical
17 privileges decision based substantially on economic
18 factors. This notice shall be given after the
19 medical staff member exhausts all applicable
20 procedures under this Section, including item (iii)
21 of subparagraph (C) of this paragraph (2), and under
22 the medical staff bylaws in order to allow
23 sufficient time for the orderly provision of patient
24 care.

25 (H) Nothing in this paragraph (2) of this
26 subsection (b) limits a medical staff member's right
27 to waive, in writing, the rights provided in
28 subparagraphs (A) through (G) of this paragraph (2)
29 of this subsection (b) upon being granted the
30 written exclusive right to provide particular
31 services at a hospital, either individually or as a
32 member of a group. If an exclusive contract is
33 signed by a representative of a group of physicians,
34 a waiver contained in the contract shall apply to

1 all members of the group unless stated otherwise in
2 the contract.

3 (3) Every adverse medical staff membership and
4 clinical privilege decision based substantially on
5 economic factors shall be reported to the Hospital
6 Licensing Board before the decision takes effect. These
7 reports shall not be disclosed in any form that reveals
8 the identity of any hospital or physician. These reports
9 shall be utilized to study the effects that hospital
10 medical staff membership and clinical privilege decisions
11 based upon economic factors have on access to care and
12 the availability of physician services. The Hospital
13 Licensing Board shall submit an initial study to the
14 Governor and the General Assembly by January 1, 1996, and
15 subsequent reports shall be submitted periodically
16 thereafter.

17 (4) As used in this Section:

18 "Adverse decision" means a decision reducing,
19 restricting, suspending, revoking, denying, or not
20 renewing medical staff membership or clinical privileges.

21 "Economic factor" means any information or reasons
22 for decisions unrelated to quality of care or
23 professional competency.

24 "Pre-applicant" means a physician licensed to
25 practice medicine in all its branches who requests an
26 application for medical staff membership or privileges.

27 "Privilege" means permission to provide medical or
28 other patient care services and permission to use
29 hospital resources, including equipment, facilities and
30 personnel that are necessary to effectively provide
31 medical or other patient care services. This definition
32 shall not be construed to require a hospital to acquire
33 additional equipment, facilities, or personnel to
34 accommodate the granting of privileges.

1 (5) Any amendment to medical staff bylaws required
2 because of this amendatory Act of the 91st General
3 Assembly shall be adopted on or before July 1, 2001.

4 (c) All hospitals shall consult with the medical staff
5 prior to closing membership in the entire or any portion of
6 the medical staff or a department. If the hospital closes
7 membership in the medical staff, any portion of the medical
8 staff, or the department over the objections of the medical
9 staff, then the hospital shall provide a detailed written
10 explanation for the decision to the medical staff 10 days
11 prior to the effective date of any closure. No applications
12 need to be provided when membership in the medical staff or
13 any relevant portion of the medical staff is closed.

14 (Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98;
15 90-655, eff. 7-30-98; 91-166, eff. 1-1-00.)

16 Section 20. The AIDS Confidentiality Act is amended by
17 changing Section 7 as follows:

18 (410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

19 Sec. 7. (a) Notwithstanding the provisions of Sections
20 4, 5 and 6 of this Act, written informed consent is not
21 required for a health care provider or health facility to
22 perform a test when the health care provider or health
23 facility procures, processes, distributes or uses a human
24 body part donated for a purpose specified under the Illinois
25 Uniform Anatomical Gift Act, or semen provided prior to the
26 effective date of this Act for the purpose of artificial
27 insemination, and such a test is necessary to assure medical
28 acceptability of such gift or semen for the purposes
29 intended.

30 (b) Written informed consent is not required for a
31 health care provider or health facility to perform a test
32 when a health care provider or employee of a health facility,

1 or a firefighter or an EMT-A, EMT-I or EMT-P, is involved in
2 an accidental direct skin or mucous membrane contact with the
3 blood or bodily fluids of an individual which is of a nature
4 that may transmit HIV, as determined by a physician in his
5 medical judgment. Should such test prove to be positive, the
6 patient and the health care provider, health facility
7 employee, firefighter, EMT-A, EMT-I, or EMT-P shall be
8 provided appropriate counseling consistent with this Act.

9 (c) Written informed consent is not required for a
10 health care provider or health facility to perform a test
11 when a law enforcement officer is involved in the line of
12 duty in a direct skin or mucous membrane contact with the
13 blood or bodily fluids of an individual which is of a nature
14 that may transmit HIV, as determined by a physician in his
15 medical judgment. Should such test prove to be positive, the
16 patient shall be provided appropriate counseling consistent
17 with this Act. For purposes of this subsection (c), "law
18 enforcement officer" means any person employed by the State,
19 a county or a municipality as a policeman, peace officer,
20 auxiliary policeman, correctional officer or in some like
21 position involving the enforcement of the law and protection
22 of the public interest at the risk of that person's life.

23 (Source: P.A. 86-887; 86-891; 86-1028; 87-459.)

24 Section 25. The Illinois Vehicle Code is amended by
25 changing Sections 6-110 and 12-215 as follows:

26 (625 ILCS 5/6-110) (from Ch. 95 1/2, par. 6-110)

27 Sec. 6-110. Licenses issued to drivers.

28 (a) The Secretary of State shall issue to every
29 qualifying applicant a driver's license as applied for, which
30 license shall bear a distinguishing number assigned to the
31 licensee, the name, social security number, zip code, date of
32 birth, address, and a brief description of the licensee, and

1 a space where the licensee may write his usual signature.

2 If the licensee is less than 17 years of age, the license
3 shall, as a matter of law, be invalid for the operation of
4 any motor vehicle during any time the licensee is prohibited
5 from being on any street or highway under the provisions of
6 the Child Curfew Act.

7 Licenses issued shall also indicate the classification
8 and the restrictions under Section 6-104 of this Code.

9 In lieu of the social security number, the Secretary may
10 in his discretion substitute a federal tax number or other
11 distinctive number.

12 A driver's license issued may, in the discretion of the
13 Secretary, include a suitable photograph of a type prescribed
14 by the Secretary.

15 (b) The Secretary of State shall provide a format on the
16 reverse of each driver's license issued which the licensee
17 may use to execute a document of gift conforming to the
18 provisions of the Illinois Uniform Anatomical Gift Act. The
19 format shall allow the licensee to indicate the gift
20 intended, whether specific organs, any organ, or the entire
21 body, and shall accommodate the signatures of the donor and 2
22 witnesses. The Secretary shall also inform each applicant or
23 licensee of this format, describe the procedure for its
24 execution, and may offer the necessary witnesses; provided
25 that in so doing, the Secretary shall advise the applicant or
26 licensee that he or she is under no compulsion to execute a
27 document of gift. A brochure explaining this method of
28 executing an anatomical gift document shall be given to each
29 applicant or licensee. The brochure shall advise the
30 applicant or licensee that he or she is under no compulsion
31 to execute a document of gift, and that he or she may wish to
32 consult with family, friends or clergy before doing so. The
33 Secretary of State may undertake additional efforts,
34 including education and awareness activities, to promote

1 organ and tissue donation.

2 (c) The Secretary of State shall designate on each
3 driver's license issued a space where the licensee may place
4 a sticker or decal of the uniform size as the Secretary may
5 specify, which sticker or decal may indicate in appropriate
6 language that the owner of the license carries an Emergency
7 Medical Information Card.

8 The sticker may be provided by any person, hospital,
9 school, medical group, or association interested in assisting
10 in implementing the Emergency Medical Information Card, but
11 shall meet the specifications as the Secretary may by rule or
12 regulation require.

13 (d) The Secretary of State shall designate on each
14 driver's license issued a space where the licensee may
15 indicate his blood type and RH factor.

16 (e) The Secretary of State shall provide that each
17 original or renewal driver's license issued to a licensee
18 under 21 years of age shall be of a distinct nature from
19 those driver's licenses issued to individuals 21 years of age
20 and older. The color designated for driver's licenses for
21 licensees under 21 years of age shall be at the discretion of
22 the Secretary of State.

23 (e-1) The Secretary shall provide that each driver's
24 license issued to a person under the age of 21 displays the
25 date upon which the person becomes 18 years of age and the
26 date upon which the person becomes 21 years of age.

27 (f) The Secretary of State shall inform all Illinois
28 licensed commercial motor vehicle operators of the
29 requirements of the Uniform Commercial Driver License Act,
30 Article V of this Chapter, and shall make provisions to
31 insure that all drivers, seeking to obtain a commercial
32 driver's license, be afforded an opportunity prior to April
33 1, 1992, to obtain the license. The Secretary is authorized
34 to extend driver's license expiration dates, and assign

1 specific times, dates and locations where these commercial
2 driver's tests shall be conducted. Any applicant, regardless
3 of the current expiration date of the applicant's driver's
4 license, may be subject to any assignment by the Secretary.
5 Failure to comply with the Secretary's assignment may result
6 in the applicant's forfeiture of an opportunity to receive a
7 commercial driver's license prior to April 1, 1992.

8 (g) The Secretary of State shall designate on a driver's
9 license issued, a space where the licensee may indicate that
10 he or she has drafted a living will in accordance with the
11 Illinois Living Will Act or a durable power of attorney for
12 health care in accordance with the Illinois Power of Attorney
13 Act.

14 (g-1) The Secretary of State, in his or her discretion,
15 may designate on each driver's license issued a space where
16 the licensee may place a sticker or decal, issued by the
17 Secretary of State, of uniform size as the Secretary may
18 specify, that shall indicate in appropriate language that the
19 owner of the license has renewed his or her driver's license.

20 (h) A person who acts in good faith in accordance with
21 the terms of this Section is not liable for damages in any
22 civil action or subject to prosecution in any criminal
23 proceeding for his or her act.

24 (Source: P.A. 91-357, eff. 7-29-99; 92-689, eff. 1-1-03.)

25 (625 ILCS 5/12-215) (from Ch. 95 1/2, par. 12-215)

26 (Text of Section before amendment by P.A. 92-872)

27 Sec. 12-215. Oscillating, rotating or flashing lights on
28 motor vehicles. Except as otherwise provided in this Code:

29 (a) The use of red or white oscillating, rotating or
30 flashing lights, whether lighted or unlighted, is prohibited
31 except on:

32 1. Law enforcement vehicles of State, Federal or
33 local authorities;

1 2. A vehicle operated by a police officer or county
 2 coroner and designated or authorized by local
 3 authorities, in writing, as a law enforcement vehicle;
 4 however, such designation or authorization must be
 5 carried in the vehicle;

6 3. Vehicles of local fire departments and State or
 7 federal firefighting vehicles;

8 4. Vehicles which are designed and used exclusively
 9 as ambulances or rescue vehicles; furthermore, such
 10 lights shall not be lighted except when responding to an
 11 emergency call for and while actually conveying the sick
 12 or injured;

13 5. Tow trucks licensed in a state that requires
 14 such lights; furthermore, such lights shall not be
 15 lighted on any such tow truck while the tow truck is
 16 operating in the State of Illinois;

17 6. Vehicles of the Illinois Emergency Management
 18 Agency, and vehicles of the Department of Nuclear Safety;
 19 and

20 7. Vehicles operated by a local or county emergency
 21 management services agency as defined in the Illinois
 22 Emergency Management Agency Act; and-

23 8. Vehicles that are equipped and used exclusively
 24 as organ transplant vehicles when used in combination
 25 with blue oscillating, rotating, or flashing lights;
 26 furthermore, these lights shall be lighted only when the
 27 transportation is declared an emergency by a member of
 28 the transplant team or a representative of the organ
 29 procurement organization.

30 (b) The use of amber oscillating, rotating or flashing
 31 lights, whether lighted or unlighted, is prohibited except
 32 on:

33 1. Second division vehicles designed and used for
 34 towing or hoisting vehicles; furthermore, such lights

1 shall not be lighted except as required in this paragraph
2 1; such lights shall be lighted when such vehicles are
3 actually being used at the scene of an accident or
4 disablement; if the towing vehicle is equipped with a
5 flat bed that supports all wheels of the vehicle being
6 transported, the lights shall not be lighted while the
7 vehicle is engaged in towing on a highway; if the towing
8 vehicle is not equipped with a flat bed that supports all
9 wheels of a vehicle being transported, the lights shall
10 be lighted while the towing vehicle is engaged in towing
11 on a highway during all times when the use of headlights
12 is required under Section 12-201 of this Code;

13 2. Motor vehicles or equipment of the State of
14 Illinois, local authorities and contractors; furthermore,
15 such lights shall not be lighted except while such
16 vehicles are engaged in maintenance or construction
17 operations within the limits of construction projects;

18 3. Vehicles or equipment used by engineering or
19 survey crews; furthermore, such lights shall not be
20 lighted except while such vehicles are actually engaged
21 in work on a highway;

22 4. Vehicles of public utilities, municipalities, or
23 other construction, maintenance or automotive service
24 vehicles except that such lights shall be lighted only as
25 a means for indicating the presence of a vehicular
26 traffic hazard requiring unusual care in approaching,
27 overtaking or passing while such vehicles are engaged in
28 maintenance, service or construction on a highway;

29 5. Oversized vehicle or load; however, such lights
30 shall only be lighted when moving under permit issued by
31 the Department under Section 15-301 of this Code;

32 6. The front and rear of motorized equipment owned
33 and operated by the State of Illinois or any political
34 subdivision thereof, which is designed and used for

1 removal of snow and ice from highways;

2 7. Fleet safety vehicles registered in another
3 state, furthermore, such lights shall not be lighted
4 except as provided for in Section 12-212 of this Code;

5 8. Such other vehicles as may be authorized by
6 local authorities;

7 9. Law enforcement vehicles of State or local
8 authorities when used in combination with red
9 oscillating, rotating or flashing lights;

10 9.5. Propane delivery trucks;

11 10. Vehicles used for collecting or delivering mail
12 for the United States Postal Service provided that such
13 lights shall not be lighted except when such vehicles are
14 actually being used for such purposes;

15 11. Any vehicle displaying a slow-moving vehicle
16 emblem as provided in Section 12-205.1;

17 12. All trucks equipped with self-compactors or
18 roll-off hoists and roll-on containers for garbage or
19 refuse hauling. Such lights shall not be lighted except
20 when such vehicles are actually being used for such
21 purposes;

22 13. Vehicles used by a security company, alarm
23 responder, or control agency; and

24 14. Security vehicles of the Department of Human
25 Services; however, the lights shall not be lighted except
26 when being used for security related purposes under the
27 direction of the superintendent of the facility where the
28 vehicle is located.

29 (c) The use of blue oscillating, rotating or flashing
30 lights, whether lighted or unlighted, is prohibited except
31 on:

32 1. Rescue squad vehicles not owned by a fire
33 department and vehicles owned or fully operated by a:
34 voluntary firefighter;

1 paid firefighter;
2 part-paid firefighter;
3 call firefighter;
4 member of the board of trustees of a fire
5 protection district;
6 paid or unpaid member of a rescue squad;
7 paid or unpaid member of a voluntary ambulance
8 unit; or
9 paid or unpaid members of a local or county
10 emergency management services agency as defined in
11 the Illinois Emergency Management Agency Act,
12 designated or authorized by local authorities, in
13 writing, and carrying that designation or
14 authorization in the vehicle.

15 However, such lights are not to be lighted except
16 when responding to a bona fide emergency.

17 2. Police department vehicles in cities having a
18 population of 500,000 or more inhabitants.

19 3. Law enforcement vehicles of State or local
20 authorities when used in combination with red
21 oscillating, rotating or flashing lights.

22 4. Vehicles of local fire departments and State or
23 federal firefighting vehicles when used in combination
24 with red oscillating, rotating or flashing lights.

25 5. Vehicles which are designed and used exclusively
26 as ambulances or rescue vehicles when used in combination
27 with red oscillating, rotating or flashing lights;
28 furthermore, such lights shall not be lighted except when
29 responding to an emergency call.

30 6. Vehicles that are equipped and used exclusively
31 as organ transport vehicles when used in combination with
32 red oscillating, rotating, or flashing lights;
33 furthermore, these lights shall only be lighted when the
34 transportation is declared an emergency by a member of

1 the transplant team or a representative of the organ
2 procurement organization.

3 7. Vehicles of the Illinois Emergency Management
4 Agency and vehicles of the Department of Nuclear Safety,
5 when used in combination with red oscillating, rotating,
6 or flashing lights.

7 8. Vehicles operated by a local or county emergency
8 management services agency as defined in the Illinois
9 Emergency Management Agency Act, when used in combination
10 with red oscillating, rotating, or flashing lights.

11 (c-1) In addition to the blue oscillating, rotating, or
12 flashing lights permitted under subsection (c), and
13 notwithstanding subsection (a), a vehicle operated by a
14 voluntary firefighter may be equipped with flashing white
15 headlights and blue grill lights, which may be used only in
16 responding to an emergency call.

17 (c-2) In addition to the blue oscillating, rotating, or
18 flashing lights permitted under subsection (c), and
19 notwithstanding subsection (a), a vehicle operated by a paid
20 or unpaid member of a local or county emergency management
21 services agency as defined in the Illinois Emergency
22 Management Agency Act, may be equipped with white
23 oscillating, rotating, or flashing lights to be used in
24 combination with blue oscillating, rotating, or flashing
25 lights, if authorization by local authorities is in writing
26 and carried in the vehicle.

27 (d) The use of a combination of amber and white
28 oscillating, rotating or flashing lights, whether lighted or
29 unlighted, is prohibited, except motor vehicles or equipment
30 of the State of Illinois, local authorities and contractors
31 may be so equipped; furthermore, such lights shall not be
32 lighted except while such vehicles are engaged in highway
33 maintenance or construction operations within the limits of
34 highway construction projects.

1 (e) All oscillating, rotating or flashing lights
2 referred to in this Section shall be of sufficient intensity,
3 when illuminated, to be visible at 500 feet in normal
4 sunlight.

5 (f) Nothing in this Section shall prohibit a
6 manufacturer of oscillating, rotating or flashing lights or
7 his representative from temporarily mounting such lights on a
8 vehicle for demonstration purposes only.

9 (g) Any person violating the provisions of subsections
10 (a), (b), (c) or (d) of this Section who without lawful
11 authority stops or detains or attempts to stop or detain
12 another person shall be guilty of a Class 4 felony.

13 (h) Except as provided in subsection (g) above, any
14 person violating the provisions of subsections (a) or (c) of
15 this Section shall be guilty of a Class A misdemeanor.

16 (Source: P.A. 91-357, eff. 7-29-99; 92-138, eff. 7-24-01;
17 92-407, eff. 8-17-01; 92-651, eff. 7-11-02; 92-782, eff.
18 8-6-02; 92-820, eff. 8-21-02; revised 8-26-02.)

19 (Text of Section after amendment by P.A. 92-872)

20 Sec. 12-215. Oscillating, rotating or flashing lights on
21 motor vehicles. Except as otherwise provided in this Code:

22 (a) The use of red or white oscillating, rotating or
23 flashing lights, whether lighted or unlighted, is prohibited
24 except on:

25 1. Law enforcement vehicles of State, Federal or
26 local authorities;

27 2. A vehicle operated by a police officer or county
28 coroner and designated or authorized by local
29 authorities, in writing, as a law enforcement vehicle;
30 however, such designation or authorization must be
31 carried in the vehicle;

32 3. Vehicles of local fire departments and State or
33 federal firefighting vehicles;

34 4. Vehicles which are designed and used exclusively

1 as ambulances or rescue vehicles; furthermore, such
2 lights shall not be lighted except when responding to an
3 emergency call for and while actually conveying the sick
4 or injured;

5 5. Tow trucks licensed in a state that requires
6 such lights; furthermore, such lights shall not be
7 lighted on any such tow truck while the tow truck is
8 operating in the State of Illinois;

9 6. Vehicles of the Illinois Emergency Management
10 Agency, and vehicles of the Department of Nuclear Safety;
11 and

12 7. Vehicles operated by a local or county emergency
13 management services agency as defined in the Illinois
14 Emergency Management Agency Act; and-

15 8. Vehicles that are equipped and used exclusively
16 as organ transplant vehicles when used in combination
17 with blue oscillating, rotating, or flashing lights;
18 furthermore, these lights shall be lighted only when the
19 transportation is declared an emergency by a member of
20 the transplant team or a representative of the organ
21 procurement organization.

22 (b) The use of amber oscillating, rotating or flashing
23 lights, whether lighted or unlighted, is prohibited except
24 on:

25 1. Second division vehicles designed and used for
26 towing or hoisting vehicles; furthermore, such lights
27 shall not be lighted except as required in this paragraph
28 1; such lights shall be lighted when such vehicles are
29 actually being used at the scene of an accident or
30 disablement; if the towing vehicle is equipped with a
31 flat bed that supports all wheels of the vehicle being
32 transported, the lights shall not be lighted while the
33 vehicle is engaged in towing on a highway; if the towing
34 vehicle is not equipped with a flat bed that supports all

1 wheels of a vehicle being transported, the lights shall
2 be lighted while the towing vehicle is engaged in towing
3 on a highway during all times when the use of headlights
4 is required under Section 12-201 of this Code;

5 2. Motor vehicles or equipment of the State of
6 Illinois, local authorities and contractors; furthermore,
7 such lights shall not be lighted except while such
8 vehicles are engaged in maintenance or construction
9 operations within the limits of construction projects;

10 3. Vehicles or equipment used by engineering or
11 survey crews; furthermore, such lights shall not be
12 lighted except while such vehicles are actually engaged
13 in work on a highway;

14 4. Vehicles of public utilities, municipalities, or
15 other construction, maintenance or automotive service
16 vehicles except that such lights shall be lighted only as
17 a means for indicating the presence of a vehicular
18 traffic hazard requiring unusual care in approaching,
19 overtaking or passing while such vehicles are engaged in
20 maintenance, service or construction on a highway;

21 5. Oversized vehicle or load; however, such lights
22 shall only be lighted when moving under permit issued by
23 the Department under Section 15-301 of this Code;

24 6. The front and rear of motorized equipment owned
25 and operated by the State of Illinois or any political
26 subdivision thereof, which is designed and used for
27 removal of snow and ice from highways;

28 7. Fleet safety vehicles registered in another
29 state, furthermore, such lights shall not be lighted
30 except as provided for in Section 12-212 of this Code;

31 8. Such other vehicles as may be authorized by
32 local authorities;

33 9. Law enforcement vehicles of State or local
34 authorities when used in combination with red

1 oscillating, rotating or flashing lights;

2 9.5. Propane delivery trucks;

3 10. Vehicles used for collecting or delivering mail
4 for the United States Postal Service provided that such
5 lights shall not be lighted except when such vehicles are
6 actually being used for such purposes;

7 11. Any vehicle displaying a slow-moving vehicle
8 emblem as provided in Section 12-205.1;

9 12. All trucks equipped with self-compactors or
10 roll-off hoists and roll-on containers for garbage or
11 refuse hauling. Such lights shall not be lighted except
12 when such vehicles are actually being used for such
13 purposes;

14 13. Vehicles used by a security company, alarm
15 responder, or control agency;

16 14. Security vehicles of the Department of Human
17 Services; however, the lights shall not be lighted except
18 when being used for security related purposes under the
19 direction of the superintendent of the facility where the
20 vehicle is located; and

21 15. Vehicles of union representatives, except that
22 the lights shall be lighted only while the vehicle is
23 within the limits of a construction project.

24 (c) The use of blue oscillating, rotating or flashing
25 lights, whether lighted or unlighted, is prohibited except
26 on:

27 1. Rescue squad vehicles not owned by a fire
28 department and vehicles owned or fully operated by a:

29 voluntary firefighter;

30 paid firefighter;

31 part-paid firefighter;

32 call firefighter;

33 member of the board of trustees of a fire
34 protection district;

1 paid or unpaid member of a rescue squad;
2 paid or unpaid member of a voluntary ambulance
3 unit; or
4 paid or unpaid members of a local or county
5 emergency management services agency as defined in
6 the Illinois Emergency Management Agency Act,
7 designated or authorized by local authorities, in
8 writing, and carrying that designation or
9 authorization in the vehicle.

10 However, such lights are not to be lighted except
11 when responding to a bona fide emergency.

12 2. Police department vehicles in cities having a
13 population of 500,000 or more inhabitants.

14 3. Law enforcement vehicles of State or local
15 authorities when used in combination with red
16 oscillating, rotating or flashing lights.

17 4. Vehicles of local fire departments and State or
18 federal firefighting vehicles when used in combination
19 with red oscillating, rotating or flashing lights.

20 5. Vehicles which are designed and used exclusively
21 as ambulances or rescue vehicles when used in combination
22 with red oscillating, rotating or flashing lights;
23 furthermore, such lights shall not be lighted except when
24 responding to an emergency call.

25 6. Vehicles that are equipped and used exclusively
26 as organ transport vehicles when used in combination with
27 red oscillating, rotating, or flashing lights;
28 furthermore, these lights shall only be lighted when the
29 transportation is declared an emergency by a member of
30 the transplant team or a representative of the organ
31 procurement organization.

32 7. Vehicles of the Illinois Emergency Management
33 Agency and vehicles of the Department of Nuclear Safety,
34 when used in combination with red oscillating, rotating,

1 or flashing lights.

2 8. Vehicles operated by a local or county emergency
3 management services agency as defined in the Illinois
4 Emergency Management Agency Act, when used in combination
5 with red oscillating, rotating, or flashing lights.

6 (c-1) In addition to the blue oscillating, rotating, or
7 flashing lights permitted under subsection (c), and
8 notwithstanding subsection (a), a vehicle operated by a
9 voluntary firefighter, a voluntary member of a rescue squad,
10 or a member of a voluntary ambulance unit may be equipped
11 with flashing white headlights and blue grill lights, which
12 may be used only in responding to an emergency call.

13 (c-2) In addition to the blue oscillating, rotating, or
14 flashing lights permitted under subsection (c), and
15 notwithstanding subsection (a), a vehicle operated by a paid
16 or unpaid member of a local or county emergency management
17 services agency as defined in the Illinois Emergency
18 Management Agency Act, may be equipped with white
19 oscillating, rotating, or flashing lights to be used in
20 combination with blue oscillating, rotating, or flashing
21 lights, if authorization by local authorities is in writing
22 and carried in the vehicle.

23 (d) The use of a combination of amber and white
24 oscillating, rotating or flashing lights, whether lighted or
25 unlighted, is prohibited except motor vehicles or equipment
26 of the State of Illinois, local authorities, contractors, and
27 union representatives may be so equipped; furthermore, such
28 lights shall not be lighted on vehicles of the State of
29 Illinois, local authorities, and contractors except while
30 such vehicles are engaged in highway maintenance or
31 construction operations within the limits of highway
32 construction projects, and shall not be lighted on the
33 vehicles of union representatives except when those vehicles
34 are within the limits of a construction project.

1 (e) All oscillating, rotating or flashing lights
2 referred to in this Section shall be of sufficient intensity,
3 when illuminated, to be visible at 500 feet in normal
4 sunlight.

5 (f) Nothing in this Section shall prohibit a
6 manufacturer of oscillating, rotating or flashing lights or
7 his representative from temporarily mounting such lights on a
8 vehicle for demonstration purposes only.

9 (g) Any person violating the provisions of subsections
10 (a), (b), (c) or (d) of this Section who without lawful
11 authority stops or detains or attempts to stop or detain
12 another person shall be guilty of a Class 4 felony.

13 (h) Except as provided in subsection (g) above, any
14 person violating the provisions of subsections (a) or (c) of
15 this Section shall be guilty of a Class A misdemeanor.

16 (Source: P.A. 91-357, eff. 7-29-99; 92-138, eff. 7-24-01;
17 92-407, eff. 8-17-01; 92-651, eff. 7-11-02; 92-782, eff.
18 8-6-02; 92-820, eff. 8-21-02; 92-872, eff. 6-1-03; revised
19 1-10-03.)

20 Section 30. The Criminal Code of 1961 is amended by
21 changing Section 12-20 as follows:

22 (720 ILCS 5/12-20) (from Ch. 38, par. 12-20)

23 Sec. 12-20. Sale of body parts. (a) Except as provided
24 in subsection (b), any person who knowingly buys or sells, or
25 offers to buy or sell, a human body or any part of a human
26 body, is guilty of a Class A misdemeanor for the first
27 conviction and a Class 4 felony for subsequent convictions.

28 (b) This Section does not prohibit:

29 (1) An anatomical gift made in accordance with the
30 Illinois Uniform Anatomical Gift Act.

31 (2) The removal and use of a human cornea in accordance
32 with the Illinois Anatomical Gift Corneal-Transplant Act.

1 (3) Reimbursement of actual expenses incurred by a
 2 living person in donating an organ, tissue or other body part
 3 or fluid for transplantation, implantation, infusion,
 4 injection, or other medical or scientific purpose, including
 5 medical costs, loss of income, and travel expenses.

6 (4) Payments provided under a plan of insurance or other
 7 health care coverage.

8 (5) Reimbursement of reasonable costs associated with
 9 the removal, storage or transportation of a human body or
 10 part thereof donated for medical or scientific purposes.

11 (6) Purchase or sale of blood, plasma, blood products or
 12 derivatives, other body fluids, or human hair.

13 (7) Purchase or sale of drugs, reagents or other
 14 substances made from human bodies or body parts, for use in
 15 medical or scientific research, treatment or diagnosis.

16 (Source: P.A. 85-191.)

17 Section 35. The Illinois Living Will Act is amended by
 18 changing Section 6 as follows:

19 (755 ILCS 35/6) (from Ch. 110 1/2, par. 706)

20 Sec. 6. Physician Responsibilities. An attending
 21 physician who has been notified of the existence of a
 22 declaration executed under this Act, without delay after the
 23 diagnosis of a terminal condition of the patient, shall take
 24 the necessary steps to provide for written recording of the
 25 patient's terminal condition, so that the patient may be
 26 deemed to be a qualified patient under this Act, or shall
 27 notify the patient or, if the patient is unable to initiate a
 28 transfer, the person or persons described in subsection (d)
 29 of Section 3 in the order of priority stated therein that the
 30 physician is unwilling to comply with the provisions of the
 31 patient's declaration. In the event of the patient's death
 32 as determined by a physician, all medical care is to be

1 terminated unless the patient is an organ donor, in which
2 case appropriate organ donation treatment may be applied or
3 continued temporarily.

4 (Source: P.A. 85-860.)

5 Section 40. The Health Care Surrogate Act is amended by
6 changing Sections 20 and 65 as follows:

7 (755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

8 Sec. 20. Private decision making process.

9 (a) Decisions whether to forgo life-sustaining or any
10 other form of medical treatment involving an adult patient
11 with decisional capacity may be made by that adult patient.

12 (b) Decisions whether to forgo life-sustaining treatment
13 on behalf of a patient without decisional capacity are
14 lawful, without resort to the courts or legal process, if the
15 patient has a qualifying condition and if the decisions are
16 made in accordance with one of the following paragraphs in
17 this subsection and otherwise meet the requirements of this
18 Act:

19 (1) Decisions whether to forgo life-sustaining
20 treatment on behalf of a minor or an adult patient who
21 lacks decisional capacity may be made by a surrogate
22 decision maker or makers in consultation with the
23 attending physician, in the order or priority provided in
24 Section 25. A surrogate decision maker shall make
25 decisions for the adult patient conforming as closely as
26 possible to what the patient would have done or intended
27 under the circumstances, taking into account evidence
28 that includes, but is not limited to, the patient's
29 personal, philosophical, religious and moral beliefs and
30 ethical values relative to the purpose of life, sickness,
31 medical procedures, suffering, and death. Where
32 possible, the surrogate shall determine how the patient

1 would have weighed the burdens and benefits of initiating
2 or continuing life-sustaining treatment against the
3 burdens and benefits of that treatment. In the event an
4 unrevoked advance directive, such as a living will, a
5 declaration for mental health treatment, or a power of
6 attorney for health care, is no longer valid due to a
7 technical deficiency or is not applicable to the
8 patient's condition, that document may be used as
9 evidence of a patient's wishes. The absence of a living
10 will, declaration for mental health treatment, or power
11 of attorney for health care shall not give rise to any
12 presumption as to the patient's preferences regarding the
13 initiation or continuation of life-sustaining procedures.
14 If the adult patient's wishes are unknown and remain
15 unknown after reasonable efforts to discern them or if
16 the patient is a minor, the decision shall be made on the
17 basis of the patient's best interests as determined by
18 the surrogate decision maker. In determining the
19 patient's best interests, the surrogate shall weigh the
20 burdens on and benefits to the patient of initiating or
21 continuing life-sustaining treatment against the burdens
22 and benefits of that treatment and shall take into
23 account any other information, including the views of
24 family and friends, that the surrogate decision maker
25 believes the patient would have considered if able to act
26 for herself or himself.

27 (2) Decisions whether to forgo life-sustaining
28 treatment on behalf of a minor or an adult patient who
29 lacks decisional capacity, but without any surrogate
30 decision maker or guardian being available determined
31 after reasonable inquiry by the health care provider, may
32 be made by a court appointed guardian. A court appointed
33 guardian shall be treated as a surrogate for the purposes
34 of this Act.

1 (b-5) Decisions concerning medical treatment on behalf
2 of a patient without decisional capacity are lawful, without
3 resort to the courts or legal process, if the patient does
4 not have a qualifying condition and if decisions are made in
5 accordance with one of the following paragraphs in this
6 subsection and otherwise meet the requirements of this Act:

7 (1) Decisions concerning medical treatment on
8 behalf of a minor or adult patient who lacks decisional
9 capacity may be made by a surrogate decision maker or
10 makers in consultation with the attending physician, in
11 the order of priority provided in Section 25 with the
12 exception that decisions to forgo life-sustaining
13 treatment may be made only when a patient has a
14 qualifying condition. A surrogate decision maker shall
15 make decisions for the patient conforming as closely as
16 possible to what the patient would have done or intended
17 under the circumstances, taking into account evidence
18 that includes, but is not limited to, the patient's
19 personal, philosophical, religious, and moral beliefs and
20 ethical values relative to the purpose of life, sickness,
21 medical procedures, suffering, and death. In the event
22 an unrevoked advance directive, such as a living will, a
23 declaration for mental health treatment, or a power of
24 attorney for health care, is no longer valid due to a
25 technical deficiency or is not applicable to the
26 patient's condition, that document may be used as
27 evidence of a patient's wishes. The absence of a living
28 will, declaration for mental health treatment, or power
29 of attorney for health care shall not give rise to any
30 presumption as to the patient's preferences regarding any
31 process. If the adult patient's wishes are unknown and
32 remain unknown after reasonable efforts to discern them
33 or if the patient is a minor, the decision shall be made
34 on the basis of the patient's best interests as

1 determined by the surrogate decision maker. In
2 determining the patient's best interests, the surrogate
3 shall weigh the burdens on and benefits to the patient of
4 the treatment against the burdens and benefits of that
5 treatment and shall take into account any other
6 information, including the views of family and friends,
7 that the surrogate decision maker believes the patient
8 would have considered if able to act for herself or
9 himself.

10 (2) Decisions concerning medical treatment on
11 behalf of a minor or adult patient who lacks decisional
12 capacity, but without any surrogate decision maker or
13 guardian being available as determined after reasonable
14 inquiry by the health care provider, may be made by a
15 court appointed guardian. A court appointed guardian
16 shall be treated as a surrogate for the purposes of this
17 Act.

18 (c) For the purposes of this Act, a patient or surrogate
19 decision maker is presumed to have decisional capacity in the
20 absence of actual notice to the contrary without regard to
21 advanced age. With respect to a patient, a diagnosis of
22 mental illness or mental retardation, of itself, is not a bar
23 to a determination of decisional capacity. A determination
24 that an adult patient lacks decisional capacity shall be made
25 by the attending physician to a reasonable degree of medical
26 certainty. The determination shall be in writing in the
27 patient's medical record and shall set forth the attending
28 physician's opinion regarding the cause, nature, and duration
29 of the patient's lack of decisional capacity. Before
30 implementation of a decision by a surrogate decision maker to
31 forgo life-sustaining treatment, at least one other qualified
32 physician must concur in the determination that an adult
33 patient lacks decisional capacity. The concurring
34 determination shall be made in writing in the patient's

1 medical record after personal examination of the patient.
2 The attending physician shall inform the patient that it has
3 been determined that the patient lacks decisional capacity
4 and that a surrogate decision maker will be making
5 life-sustaining treatment decisions on behalf of the patient.
6 Moreover, the patient shall be informed of the identity of
7 the surrogate decision maker and any decisions made by that
8 surrogate. If the person identified as the surrogate
9 decision maker is not a court appointed guardian and the
10 patient objects to the statutory surrogate decision maker or
11 any decision made by that surrogate decision maker, then the
12 provisions of this Act shall not apply.

13 (d) A surrogate decision maker acting on behalf of the
14 patient shall express decisions to forgo life-sustaining
15 treatment to the attending physician and one adult witness
16 who is at least 18 years of age. This decision and the
17 substance of any known discussion before making the decision
18 shall be documented by the attending physician in the
19 patient's medical record and signed by the witness.

20 (e) The existence of a qualifying condition shall be
21 documented in writing in the patient's medical record by the
22 attending physician and shall include its cause and nature,
23 if known. The written concurrence of another qualified
24 physician is also required.

25 (f) Once the provisions of this Act are complied with,
26 the attending physician shall thereafter promptly implement
27 the decision to forgo life-sustaining treatment on behalf of
28 the patient unless he or she believes that the surrogate
29 decision maker is not acting in accordance with his or her
30 responsibilities under this Act, or is unable to do so for
31 reasons of conscience or other personal views or beliefs.

32 (g) In the event of a patient's death as determined by a
33 physician, all life-sustaining treatment and other medical
34 care is to be terminated, unless the patient is an organ

1 donor, in which case appropriate organ donation treatment may
2 be applied or continued temporarily.

3 (Source: P.A. 90-246, eff. 1-1-98.)

4 (755 ILCS 40/65)

5 Sec. 65. Do-not-resuscitate orders.

6 (a) An individual of sound mind and having reached the
7 age of majority or having obtained the status of an
8 emancipated person pursuant to the Emancipation of Mature
9 Minors Act may execute a document (consistent with the
10 Department of Public Health Uniform DNR Order Form) directing
11 that resuscitating efforts shall not be implemented. Such an
12 order may also be executed by an attending physician.
13 Notwithstanding the existence of a DNR order, appropriate
14 organ donation treatment may be applied or continued
15 temporarily in the event of the patient's death, in
16 accordance with subsection (g) of Section 20 of this Act, if
17 the patient is an organ donor.

18 (b) Consent to a DNR order may be obtained from the
19 individual, or from another person at the individual's
20 direction, or from the individual's legal guardian, agent
21 under a power of attorney for health care, or surrogate
22 decision maker, and witnessed by 2 individuals 18 years of
23 age or older.

24 (c) The DNR order may, but need not, be in the form
25 adopted by the Department of Public Health pursuant to
26 Section 2310-600 of the Department of Public Health Powers
27 and Duties Law (20 ILCS 2310/2310-600).

28 (d) A health care professional or health care provider
29 may presume, in the absence of knowledge to the contrary,
30 that a completed Department of Public Health Uniform DNR
31 Order form or a copy of that form is a valid DNR order. A
32 health care professional or health care provider, or an
33 employee of a health care professional or health care

1 provider, who in good faith complies with a
2 do-not-resuscitate order made in accordance with this Act is
3 not, as a result of that compliance, subject to any criminal
4 or civil liability, except for willful and wanton misconduct,
5 and may not be found to have committed an act of
6 unprofessional conduct.

7 (Source: P.A. 92-356, eff. 10-1-01.)

8 Section 45. The Illinois Power of Attorney Act is
9 amended by changing Sections 4-7 and 4-10 as follows:

10 (755 ILCS 45/4-7) (from Ch. 110 1/2, par. 804-7)

11 Sec. 4-7. Duties of health care providers and others in
12 relation to health care agencies. Each health care provider
13 and each other person with whom an agent deals under a health
14 care agency shall be subject to the following duties and
15 responsibilities:

16 (a) It is the responsibility of the agent or patient to
17 notify the health care provider of the existence of the
18 health care agency and any amendment or revocation thereof.
19 A health care provider furnished with a copy of a health care
20 agency shall make it a part of the patient's medical records
21 and shall enter in the records any change in or termination
22 of the health care agency by the principal that becomes known
23 to the provider. Whenever a provider believes a patient may
24 lack capacity to give informed consent to health care which
25 the provider deems necessary, the provider shall consult with
26 any available health care agent known to the provider who
27 then has power to act for the patient under a health care
28 agency.

29 (b) A health care decision made by an agent in
30 accordance with the terms of a health care agency shall be
31 complied with by every health care provider to whom the
32 decision is communicated, subject to the provider's right to

1 administer treatment for the patient's comfort care or
2 alleviation of pain; but if the provider is unwilling to
3 comply with the agent's decision, the provider shall promptly
4 inform the agent who shall then be responsible to make the
5 necessary arrangements for the transfer of the patient to
6 another provider. It is understood that a provider who is
7 unwilling to comply with the agent's decision will continue
8 to afford reasonably necessary consultation and care in
9 connection with the transfer.

10 (c) At the patient's expense and subject to reasonable
11 rules of the health care provider to prevent disruption of
12 the patient's health care, each health care provider shall
13 give an agent authorized to receive such information under a
14 health care agency the same right the principal has to
15 examine and copy any part or all of the patient's medical
16 records that the agent deems relevant to the exercise of the
17 agent's powers, whether the records relate to mental health
18 or any other medical condition and whether they are in the
19 possession of or maintained by any physician, psychiatrist,
20 psychologist, therapist, hospital, nursing home or other
21 health care provider.

22 (d) If and to the extent a health care agency empowers
23 the agent to (1) make an anatomical gift on behalf of the
24 principal under the Illinois Uniform Anatomical Gift Act, as
25 now or hereafter amended, or (2) authorize an autopsy of the
26 principal's body pursuant to Section 2 of "An Act in relation
27 to autopsy of dead bodies", approved August 13, 1965, as now
28 or hereafter amended, or (3) direct the disposition of the
29 principal's remains, the decision by an authorized agent as
30 to anatomical gift, autopsy approval or remains disposition
31 shall be deemed the act of the principal and shall control
32 over the decision of other persons who might otherwise have
33 priority; and each person to whom a direction by the agent in
34 accordance with the terms of the agency is communicated shall

1 comply with such direction.

2 (Source: P.A. 86-736.)

3 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

4 Sec. 4-10. Statutory short form power of attorney for
5 health care.

6 (a) The following form (sometimes also referred to in
7 this Act as the "statutory health care power") may be used to
8 grant an agent powers with respect to the principal's own
9 health care; but the statutory health care power is not
10 intended to be exclusive nor to cover delegation of a
11 parent's power to control the health care of a minor child,
12 and no provision of this Article shall be construed to
13 invalidate or bar use by the principal of any other or
14 different form of power of attorney for health care.
15 Nonstatutory health care powers must be executed by the
16 principal, designate the agent and the agent's powers, and
17 comply with Section 4-5 of this Article, but they need not be
18 witnessed or conform in any other respect to the statutory
19 health care power. When a power of attorney in substantially
20 the following form is used, including the "notice" paragraph
21 at the beginning in capital letters, it shall have the
22 meaning and effect prescribed in this Act. The statutory
23 health care power may be included in or combined with any
24 other form of power of attorney governing property or other
25 matters.

26 "ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR
27 HEALTH CARE

28 (NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO
29 GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO
30 MAKE HEALTH CARE DECISIONS FOR YOU, INCLUDING POWER TO
31 REQUIRE, CONSENT TO OR WITHDRAW ANY TYPE OF PERSONAL CARE OR
32 MEDICAL TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO
33 ADMIT YOU TO OR DISCHARGE YOU FROM ANY HOSPITAL, HOME OR

1 OTHER INSTITUTION. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR
 2 AGENT TO EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE
 3 EXERCISED, YOUR AGENT WILL HAVE TO USE DUE CARE TO ACT FOR
 4 YOUR BENEFIT AND IN ACCORDANCE WITH THIS FORM AND KEEP A
 5 RECORD OF RECEIPTS, DISBURSEMENTS AND SIGNIFICANT ACTIONS
 6 TAKEN AS AGENT. A COURT CAN TAKE AWAY THE POWERS OF YOUR
 7 AGENT IF IT FINDS THE AGENT IS NOT ACTING PROPERLY. YOU MAY
 8 NAME SUCCESSOR AGENTS UNDER THIS FORM BUT NOT CO-AGENTS, AND
 9 NO HEALTH CARE PROVIDER MAY BE NAMED. UNLESS YOU EXPRESSLY
 10 LIMIT THE DURATION OF THIS POWER IN THE MANNER PROVIDED
 11 BELOW, UNTIL YOU REVOKE THIS POWER OR A COURT ACTING ON YOUR
 12 BEHALF TERMINATES IT, YOUR AGENT MAY EXERCISE THE POWERS
 13 GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU BECOME
 14 DISABLED. THE POWERS YOU GIVE YOUR AGENT, YOUR RIGHT TO
 15 REVOKE THOSE POWERS AND THE PENALTIES FOR VIOLATING THE LAW
 16 ARE EXPLAINED MORE FULLY IN SECTIONS 4-5, 4-6, 4-9 AND
 17 4-10(b) OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE
 18 LAW" OF WHICH THIS FORM IS A PART (SEE THE BACK OF THIS
 19 FORM). THAT LAW EXPRESSLY PERMITS THE USE OF ANY DIFFERENT
 20 FORM OF POWER OF ATTORNEY YOU MAY DESIRE. IF THERE IS
 21 ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU
 22 SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.)

23 POWER OF ATTORNEY made thisday of
 24

25 (month) (year)

26 1. I,,
 27 (insert name and address of principal)

28 hereby appoint:
 29

30 (insert name and address of agent)

31 as my attorney-in-fact (my "agent") to act for me and in my
 32 name (in any way I could act in person) to make any and all
 33 decisions for me concerning my personal care, medical
 34 treatment, hospitalization and health care and to require,

1 withhold or withdraw any type of medical treatment or
 2 procedure, even though my death may ensue. My agent shall
 3 have the same access to my medical records that I have,
 4 including the right to disclose the contents to others. My
 5 agent shall also have full power to authorize an autopsy and
 6 direct the disposition of my remains. Effective upon my
 7 death, my agent has the full power to make an anatomical gift
 8 of the following (initial one):

9 Any organs, tissues, or eyes suitable for
 10 transplantation or used for research or education organ.

11 Specific organs:.....

12 (THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS
 13 POSSIBLE SO THAT YOUR AGENT WILL HAVE AUTHORITY TO MAKE ANY
 14 DECISION YOU COULD MAKE TO OBTAIN OR TERMINATE ANY TYPE OF
 15 HEALTH CARE, INCLUDING WITHDRAWAL OF FOOD AND WATER AND OTHER
 16 LIFE-SUSTAINING MEASURES, IF YOUR AGENT BELIEVES SUCH ACTION
 17 WOULD BE CONSISTENT WITH YOUR INTENT AND DESIRES. IF YOU
 18 WISH TO LIMIT THE SCOPE OF YOUR AGENT'S POWERS OR PRESCRIBE
 19 SPECIAL RULES OR LIMIT THE POWER TO MAKE AN ANATOMICAL GIFT,
 20 AUTHORIZE AUTOPSY OR DISPOSE OF REMAINS, YOU MAY DO SO IN THE
 21 FOLLOWING PARAGRAPHS.)

22 2. The powers granted above shall not include the
 23 following powers or shall be subject to the following rules
 24 or limitations (here you may include any specific limitations
 25 you deem appropriate, such as: your own definition of when
 26 life-sustaining measures should be withheld; a direction to
 27 continue food and fluids or life-sustaining treatment in all
 28 events; or instructions to refuse any specific types of
 29 treatment that are inconsistent with your religious beliefs
 30 or unacceptable to you for any other reason, such as blood
 31 transfusion, electro-convulsive therapy, amputation,
 32 psychosurgery, voluntary admission to a mental institution,
 33 etc.):

34

1
 2
 3
 4

5 (THE SUBJECT OF LIFE-SUSTAINING TREATMENT IS OF PARTICULAR
 6 IMPORTANCE. FOR YOUR CONVENIENCE IN DEALING WITH THAT
 7 SUBJECT, SOME GENERAL STATEMENTS CONCERNING THE WITHHOLDING
 8 OR REMOVAL OF LIFE-SUSTAINING TREATMENT ARE SET FORTH BELOW.
 9 IF YOU AGREE WITH ONE OF THESE STATEMENTS, YOU MAY INITIAL
 10 THAT STATEMENT; BUT DO NOT INITIAL MORE THAN ONE):

11 I do not want my life to be prolonged nor do I want
 12 life-sustaining treatment to be provided or continued if my
 13 agent believes the burdens of the treatment outweigh the
 14 expected benefits. I want my agent to consider the relief of
 15 suffering, the expense involved and the quality as well as
 16 the possible extension of my life in making decisions
 17 concerning life-sustaining treatment.

18 Initialed.....

19 I want my life to be prolonged and I want life-sustaining
 20 treatment to be provided or continued unless I am in a coma
 21 which my attending physician believes to be irreversible, in
 22 accordance with reasonable medical standards at the time of
 23 reference. If and when I have suffered irreversible coma, I
 24 want life-sustaining treatment to be withheld or
 25 discontinued.

26 Initialed.....

27 I want my life to be prolonged to the greatest extent
 28 possible without regard to my condition, the chances I have
 29 for recovery or the cost of the procedures.

30 Initialed.....

31 (THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU IN
 32 THE MANNER PROVIDED IN SECTION 4-6 OF THE ILLINOIS "POWERS OF
 33 ATTORNEY FOR HEALTH CARE LAW" (SEE THE BACK OF THIS FORM).
 34 ABSENT AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS

1 POWER OF ATTORNEY WILL BECOME EFFECTIVE AT THE TIME THIS
 2 POWER IS SIGNED AND WILL CONTINUE UNTIL YOUR DEATH, AND
 3 BEYOND IF ANATOMICAL GIFT, AUTOPSY OR DISPOSITION OF REMAINS
 4 IS AUTHORIZED, UNLESS A LIMITATION ON THE BEGINNING DATE OR
 5 DURATION IS MADE BY INITIALING AND COMPLETING EITHER OR BOTH
 6 OF THE FOLLOWING:)

7 3. () This power of attorney shall become effective on
 8
 9

10 (insert a future date or event during your lifetime, such as
 11 court determination of your disability, when you want this
 12 power to first take effect)

13 4. () This power of attorney shall terminate on
 14

15 (insert a future date or event, such as court determination
 16 of your disability, when you want this power to terminate
 17 prior to your death)

18 (IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAMES AND
 19 ADDRESSES OF SUCH SUCCESSORS IN THE FOLLOWING PARAGRAPH.)

20 5. If any agent named by me shall die, become
 21 incompetent, resign, refuse to accept the office of agent or
 22 be unavailable, I name the following (each to act alone and
 23 successively, in the order named) as successors to such
 24 agent:

25
 26

27 For purposes of this paragraph 5, a person shall be
 28 considered to be incompetent if and while the person is a
 29 minor or an adjudicated incompetent or disabled person or the
 30 person is unable to give prompt and intelligent consideration
 31 to health care matters, as certified by a licensed physician.

32 (IF YOU WISH TO NAME YOUR AGENT AS GUARDIAN OF YOUR PERSON,
 33 IN THE EVENT A COURT DECIDES THAT ONE SHOULD BE APPOINTED,
 34 YOU MAY, BUT ARE NOT REQUIRED TO, DO SO BY RETAINING THE

1 FOLLOWING PARAGRAPH. THE COURT WILL APPOINT YOUR AGENT IF
2 THE COURT FINDS THAT SUCH APPOINTMENT WILL SERVE YOUR BEST
3 INTERESTS AND WELFARE. STRIKE OUT PARAGRAPH 6 IF YOU DO NOT
4 WANT YOUR AGENT TO ACT AS GUARDIAN.)

5 6. If a guardian of my person is to be appointed, I
6 nominate the agent acting under this power of attorney as
7 such guardian, to serve without bond or security.

8 7. I am fully informed as to all the contents of this
9 form and understand the full import of this grant of powers
10 to my agent.

11 Signed.....

12 (principal)

13 The principal has had an opportunity to read the above
14 form and has signed the form or acknowledged his or her
15 signature or mark on the form in my presence.

16 Residing at.....

17 (witness)

18 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND
19 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF
20 YOU INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY,
21 YOU MUST COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES
22 OF THE AGENTS.)

23 Specimen signatures of I certify that the signatures of my
24 agent (and successors). agent (and successors) are correct.

25

26 (agent)

(principal)

27

28 (successor agent)

(principal)

29

30 (successor agent)

(principal)"

31 (b) The statutory short form power of attorney for
32 health care (the "statutory health care power") authorizes
33 the agent to make any and all health care decisions on behalf
34 of the principal which the principal could make if present

1 and under no disability, subject to any limitations on the
2 granted powers that appear on the face of the form, to be
3 exercised in such manner as the agent deems consistent with
4 the intent and desires of the principal. The agent will be
5 under no duty to exercise granted powers or to assume control
6 of or responsibility for the principal's health care; but
7 when granted powers are exercised, the agent will be required
8 to use due care to act for the benefit of the principal in
9 accordance with the terms of the statutory health care power
10 and will be liable for negligent exercise. The agent may
11 act in person or through others reasonably employed by the
12 agent for that purpose but may not delegate authority to make
13 health care decisions. The agent may sign and deliver all
14 instruments, negotiate and enter into all agreements and do
15 all other acts reasonably necessary to implement the exercise
16 of the powers granted to the agent. Without limiting the
17 generality of the foregoing, the statutory health care power
18 shall include the following powers, subject to any
19 limitations appearing on the face of the form:

20 (1) The agent is authorized to give consent to and
21 authorize or refuse, or to withhold or withdraw consent to,
22 any and all types of medical care, treatment or procedures
23 relating to the physical or mental health of the principal,
24 including any medication program, surgical procedures,
25 life-sustaining treatment or provision of food and fluids for
26 the principal.

27 (2) The agent is authorized to admit the principal to or
28 discharge the principal from any and all types of hospitals,
29 institutions, homes, residential or nursing facilities,
30 treatment centers and other health care institutions
31 providing personal care or treatment for any type of physical
32 or mental condition. The agent shall have the same right to
33 visit the principal in the hospital or other institution as
34 is granted to a spouse or adult child of the principal, any

1 rule of the institution to the contrary notwithstanding.

2 (3) The agent is authorized to contract for any and all
3 types of health care services and facilities in the name of
4 and on behalf of the principal and to bind the principal to
5 pay for all such services and facilities, and to have and
6 exercise those powers over the principal's property as are
7 authorized under the statutory property power, to the extent
8 the agent deems necessary to pay health care costs; and the
9 agent shall not be personally liable for any services or care
10 contracted for on behalf of the principal.

11 (4) At the principal's expense and subject to reasonable
12 rules of the health care provider to prevent disruption of
13 the principal's health care, the agent shall have the same
14 right the principal has to examine and copy and consent to
15 disclosure of all the principal's medical records that the
16 agent deems relevant to the exercise of the agent's powers,
17 whether the records relate to mental health or any other
18 medical condition and whether they are in the possession of
19 or maintained by any physician, psychiatrist, psychologist,
20 therapist, hospital, nursing home or other health care
21 provider.

22 (5) The agent is authorized: to direct that an autopsy
23 be made pursuant to Section 2 of "An Act in relation to
24 autopsy of dead bodies", approved August 13, 1965, including
25 all amendments; to make a disposition of any part or all of
26 the principal's body pursuant to the Illinois Uniform
27 Anatomical Gift Act, as now or hereafter amended; and to
28 direct the disposition of the principal's remains.

29 (Source: P.A. 91-240, eff. 1-1-00.)

30 Section 50. The Uniform Anatomical Gift Act is amended
31 by changing and renumbering Sections 1, 2, 3, 4, 4.5, 5, 6,
32 7, 8, and 8.1 and by adding Article headings for Articles 1
33 and 5 and adding Sections 1-5, 5-25, and 5-30 as follows:

1 (755 ILCS 50/Art. 1 heading new)

2 Article 1. Title and General Provisions.

3 (755 ILCS 50/1-1 new) (was 755 ILCS 50/1)

4 Sec. 1-1 1. Short Title.

5 This Act may be cited as the Illinois Uniform Anatomical
6 Gift Act.

7 (Source: P.A. 76-1209.)

8 (755 ILCS 50/1-5 new)

9 Sec. 1-5. Purpose. Illinois recognizes that there is a
10 critical shortage of human organs and tissues available to
11 citizens in need of organ and tissue transplants. This
12 shortage leads to the untimely death of many adults and
13 children in Illinois and across the nation each year. This
14 Act is intended to implement the public policy of encouraging
15 timely donation of human organs and tissue in Illinois and
16 facilitating transplants of those organs and tissue into
17 patients in need of them. Through this Act, laws relating to
18 organ and tissue donation and transplantation are
19 consolidated and modified for the purpose of furthering this
20 public policy.

21 (755 ILCS 50/1-10 new) (was 755 ILCS 50/2)

22 Sec. 1-10 2. Definitions.}{a}

23 "Bank or storage facility" means a facility licensed,
24 accredited or approved under the laws of any state for
25 storage of human bodies or parts thereof.

26 "Close friend" means any person 18 years of age or older
27 who has exhibited special care and concern for the decedent
28 and who presents an affidavit to the decedent's attending
29 physician, or the hospital administrator or his or her
30 designated representative, stating that he or she (i) was a
31 close friend of the decedent, (ii) is willing and able to

1 consent to the donation, and (iii) maintained such regular
 2 contact with the decedent as to be familiar with the
 3 decedent's health and social history, and religious and moral
 4 beliefs. The affidavit must also state facts and
 5 circumstances that demonstrate that familiarity.

6 (b) "Death" means for the purposes of the Act, the
 7 irreversible cessation of total brain function, according to
 8 usual and customary standards of medical practice.

9 (c) "Decedent" means a deceased individual and includes
 10 a stillborn infant or fetus.

11 (d) "Donor" means an individual who makes a gift of all
 12 or parts of his body.

13 "Federally designated organ procurement agency" means the
 14 organ procurement agency designated by the Secretary of the
 15 U.S. Department of Health and Human Services for the service
 16 area in which a hospital is located, or the organ procurement
 17 agency for which the U.S. Secretary of Health and Human
 18 Services has granted the hospital a waiver pursuant to 42
 19 U.S.C. 1320b-8(a).

20 (e) "Hospital" means a hospital licensed, accredited or
 21 approved under the laws of any state; and includes a hospital
 22 operated by the United States government, a state, or a
 23 subdivision thereof, although not required to be licensed
 24 under state laws.

25 "Not available" for the giving of consent or refusal
 26 means:

27 (1) the existence of the person is unknown to the
 28 hospital administrator or designee, organ procurement agency,
 29 or tissue bank and is not readily ascertainable through the
 30 examination of the decedent's hospital records and the
 31 questioning of any persons who are available for giving
 32 consent;

33 (2) the administrator or designee, organ procurement
 34 agency, or tissue bank has unsuccessfully attempted to

1 contact the person by telephone or in any other reasonable
2 manner; or

3 (3) the person is unable or unwilling to respond in a
4 manner that indicates the person's refusal or consent.

5 "Organ" means a human kidney, liver, heart, lung,
6 pancreas, small bowel, or other transplantable vascular body
7 part as determined by the Organ Procurement and
8 Transplantation Network, as periodically selected by the U.S.
9 Department of Health and Human Services.

10 "Tissue" means eyes, bones, heart valves, veins, skin,
11 and any other portions of a human body excluding blood, blood
12 products or organs.

13 {f} "Part" means organs, tissues, eyes, bones, arteries,
14 blood, other fluids and any other portions of a human body.

15 {g} "Person" means an individual, corporation,
16 government or governmental subdivision or agency, business
17 trust, estate, trust, partnership or association or any other
18 legal entity.

19 {h} "Physician" or "surgeon" means a physician or
20 surgeon licensed or authorized to practice medicine in all of
21 its branches under the laws of any state.

22 {i} "State" includes any state, district, commonwealth,
23 territory, insular possession, and any other area subject to
24 the legislative authority of the United States of America.

25 {j} "Technician" means an individual trained and
26 certified to remove tissue, by a recognized medical training
27 institution in the State of Illinois.

28 "Tissue bank" means any facility or program operating in
29 Illinois that is certified by the American Association of
30 Tissue Banks, the Eye Bank Association of America, or the
31 Association of Organ Procurement Organizations and is
32 involved in procuring, furnishing, donating, or distributing
33 corneas, bones, or other human tissue for the purpose of
34 injecting, transfusing, or transplanting any of them into the

1 human body. "Tissue bank" does not include a licensed blood
2 bank. For the purposes of this Act, "tissue" does not include
3 organs or blood or blood products.

4 (Source: P.A. 79-952.)

5 (755 ILCS 50/Art. 5/heading new)

6 Article 5. Organ Donation.

7 (755 ILCS 50/5-5 new) (was 755 ILCS 50/3)

8 Sec. 5-5 3. Persons who may execute an anatomical gift.

9 (a) Any individual of sound mind who has attained the
10 age of 18 may give all or any part of his or her body for any
11 purpose specified in Section 5-10 4. Such a gift may be
12 executed in any of the ways set out in Section 5-20 5, and
13 shall take effect upon the individual's death without the
14 need to obtain the consent of any survivor. An anatomical
15 gift made by an agent of an individual, as authorized by the
16 individual under the Powers of Attorney for Health Care Law,
17 as now or hereafter amended, is deemed to be a gift by that
18 individual and takes effect without the need to obtain the
19 consent of any other person.

20 (b) If no gift has been executed under subsection (a),
21 any of the following persons, in the order of priority stated
22 in items (1) through (11) ~~(9)~~ below, when persons in prior
23 classes are not available for the giving of consent or
24 refusal and in the absence of (i) actual notice of contrary
25 intentions by the decedent and (ii) actual notice of
26 opposition by any member within the same priority class, may
27 consent to give all or any part of the decedent's body after
28 or immediately before death to a person who may become a
29 donee for any purpose specified in Section 5-10 4:

- 30 (1) an individual acting as the decedent's agent
31 under a power of attorney for health care ~~which provides~~
32 ~~specific-direction-regarding-organ-donation,~~

1 (2) the decedent's surrogate decision maker
2 identified by the attending physician in accordance with
3 the Health Care Surrogate Act,

4 (3) the guardian of the decedent's person at the
5 time of death,

6 (4) (2) the decedent's spouse,

7 (5) (3) any of the decedent's adult sons or
8 daughters,

9 (6) (4) either of the decedent's parents,

10 (7) (5) any of the decedent's adult brothers or
11 sisters,

12 (8) (6) any adult grandchild of the decedent,

13 (9) a close friend of the decedent,

14 (10) (7) the guardian of the decedent's estate,

15 (8) ~~the decedent's surrogate decision maker under~~
16 ~~the Health Care Surrogate Act,~~

17 (11) (9) any other person authorized or under legal
18 obligation to dispose of the body.

19 If the donee has actual notice of opposition to the gift
20 by the decedent or any person in the highest priority class
21 in which an available person can be found, then no gift of
22 all or any part of the decedent's body shall be accepted.

23 (9) ~~For the purposes of this Act, a person will not be~~
24 ~~considered "available" for the giving of consent or refusal~~
25 ~~if:~~

26 (1) ~~the existence of the person is unknown to the~~
27 ~~donee and is not readily ascertainable through the~~
28 ~~examination of the decedent's hospital records and the~~
29 ~~questioning of any persons who are available for giving~~
30 ~~consent;~~

31 (2) ~~the donee has unsuccessfully attempted to~~
32 ~~contact the person by telephone or in any other~~
33 ~~reasonable manner;~~

34 (3) ~~the person is unable or unwilling to respond in~~

1 ~~a-manner-which-indicates-the-person's-refusal-or-consent-~~
 2 (c) ~~(d)~~ A gift of all or part of a body authorizes any
 3 examination necessary to assure medical acceptability of the
 4 gift for the purposes intended.

5 (d) ~~(e)~~ The rights of the donee created by the gift are
 6 paramount to the rights of others except as provided by
 7 Section ~~5-45~~ 8(d).

8 (e) ~~(f)~~ If no gift has been executed under this Section,
 9 then no part of the decedent's body may be used for any
 10 purpose specified in Section ~~5-10~~ 4 of this Act, ~~--except--in~~
 11 ~~accordance-with-the-Organ-Donation-Request-Act-or-the-Corneal~~
 12 ~~Transplant-Act.~~

13 (Source: P.A. 92-349, eff. 1-1-02.)

14 (755 ILCS 50/5-10 new) (was 755 ILCS 50/4)

15 Sec. ~~5-10~~ 4. Persons Who May Become Donees; Purposes for
 16 Which Anatomical Gifts May be Made.

17 The following persons may become donees of gifts of
 18 bodies or parts thereof for the purposes stated:

19 (1) any hospital, surgeon, or physician, for medical or
 20 dental education, research, advancement of medical or dental
 21 science, therapy, or transplantation; or

22 (2) any accredited medical, chiropractic, mortuary or
 23 dental school, college or university for education, research,
 24 advancement of medical or dental science, or therapy; or

25 (3) any bank or storage facility, for medical or dental
 26 education, research, advancement of medical or dental
 27 science, therapy, or transplantation; or

28 (4) any federally designated organ procurement agency or
 29 tissue bank, for medical or dental education, research,
 30 advancement of medical or dental science, therapy, or
 31 transplantation; or

32 (5) ~~(4)~~ any specified individual for therapy or
 33 transplantation needed by him or her, or for any other

1 purpose.

2 (Source: P.A. 76-1209.)

3 (755 ILCS 50/5-15 new) (was 755 ILCS 50/4.5)

4 Sec. 5-15 4-5. Disability of recipient.

5 (a) No hospital, physician and surgeon, bank or storage
6 facility, or other person shall determine the ultimate
7 recipient of an anatomical gift based upon a potential
8 recipient's physical or mental disability, except to the
9 extent that the physical or mental disability has been found
10 by a physician and surgeon, following a case-by-case
11 evaluation of the potential recipient, to be medically
12 significant to the provision of the anatomical gift.

13 (b) Subsection (a) shall apply to each part of the organ
14 transplant process.

15 (c) The court shall accord priority on its calendar and
16 handle expeditiously any action brought to seek any remedy
17 authorized by law for purposes of enforcing compliance with
18 this Section.

19 (d) This Section shall not be deemed to require
20 referrals or recommendations for or the performance of
21 medically inappropriate organ transplants.

22 (e) As used in this Section "disability" has the same
23 meaning as in the federal Americans with Disabilities Act of
24 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be
25 amended from time to time.

26 (Source: P.A. 91-345, eff. 1-1-00.)

27 (755 ILCS 50/5-20 new) (was 755 ILCS 50/5)

28 Sec. 5-20 5. Manner of Executing Anatomical Gifts. (a) A
29 gift of all or part of the body under Section 5-5 3 (a) may
30 be made by will. The gift becomes effective upon the death of
31 the testator without waiting for probate. If the will is not
32 probated, or if it is declared invalid for testamentary

1 purposes, the gift, to the extent that it has been acted upon
2 in good faith, is nevertheless valid and effective.

3 (b) A gift of all or part of the body under Section 5-5
4 3 (a) may also be made by a written, signed document other
5 than a will. The gift becomes effective upon the death of the
6 donor. The document, which may be a card or a valid driver's
7 license designed to be carried on the person, must be signed
8 by the donor in the presence of 2 witnesses who must sign the
9 document in his presence and who thereby certify that he was
10 of sound mind and memory and free from any undue influence
11 and knows the objects of his bounty and affection. Such a
12 gift may also be made by properly executing the form provided
13 by the Secretary of State on the reverse side of the donor's
14 driver's license pursuant to subsection (b) of Section 6-110
15 of The Illinois Vehicle Code. Delivery of the document of
16 gift during the donor's lifetime is not necessary to make the
17 gift valid.

18 (c) The gift may be made to a specified donee or without
19 specifying a donee. If the latter, the gift may be accepted
20 by the attending physician as donee upon or following death.
21 If the gift is made to a specified donee who is not available
22 at the time and place of death, then if made for the purpose
23 of transplantation, it shall be effectuated in accordance
24 with Section 5-25, and if made for any other purpose the
25 attending physician upon or following death, in the absence
26 of any expressed indication that the donor desired otherwise,
27 may accept the gift as donee. ~~The--physician--who--becomes--a~~
28 ~~donee--under--this--subsection--shall--not--participate--either~~
29 ~~physically--or--financially--in--the--procedures--for--removing--or~~
30 ~~transplanting--a--part.~~

31 (d) Notwithstanding Section 5-45 8 (b), the donor may
32 designate in his will, card, or other document of gift the
33 surgeon or physician to carry out the appropriate procedures.
34 In the absence of a designation or if the designee is not

1 available, the donee or other person authorized to accept the
2 gift may employ or authorize any surgeon or physician for the
3 purpose.

4 (e) Any gift by a person designated in Section 5-5 3 (b)
5 shall be made by a document signed by him or made by his
6 telegraphic, recorded telephonic, or other recorded message.

7 (Source: P.A. 85-192.)

8 (755 ILCS 50/5-25 new)

9 Sec. 5-25. Notification; consent.

10 (a) When, based upon generally accepted medical
11 standards, an inpatient in a general acute care hospital with
12 more than 100 beds is a suitable candidate for organ or
13 tissue donation and the patient has not made an anatomical
14 gift of all or any part of his or her body pursuant to
15 Section 5-20 of this Act, the hospital shall proceed in
16 accordance with the requirements of 42 CFR 45 or any
17 successor provisions of federal statute or regulation, as may
18 be amended from time to time, and the written agreement
19 between the hospital and the applicable organ procurement
20 agency executed thereunder.

21 (b) In making a request for organ or tissue donation,
22 the hospital or the hospital's federally designated organ
23 procurement agency or tissue bank shall request any of the
24 following persons, in the order of priority stated in items
25 (1) through (11) below, when persons in prior classes are not
26 available and in the absence of (i) actual notice of contrary
27 intentions by the decedent, (ii) actual notice of opposition
28 by any member within the same priority class, and (iii)
29 reason to believe that an anatomical gift is contrary to the
30 decedent's religious beliefs, to consent to the gift of all
31 or any part of the decedent's body for any purpose specified
32 in Section 5-10 of this Act:

33 (1) an individual acting as the decedent's agent

1 under a power of attorney for health care;

2 (2) the decedent's surrogate decision maker
3 identified by the attending physician in accordance with
4 the Health Care Surrogate Act;

5 (3) the guardian of the decedent's person at the
6 time of death;

7 (4) the decedent's spouse;

8 (5) any of the decedent's adult sons or daughters;

9 (6) either of the decedent's parents;

10 (7) any of the decedent's adult brothers or
11 sisters;

12 (8) any adult grandchild of the decedent;

13 (9) a close friend of the decedent;

14 (10) the guardian of the decedent's estate; or

15 (11) any other person authorized or under legal
16 obligation to dispose of the body.

17 (c) If (1) the hospital, the applicable organ
18 procurement agency, or the tissue bank has actual notice of
19 opposition to the gift by the decedent or any person in the
20 highest priority class in which an available person can be
21 found, or (2) there is reason to believe that an anatomical
22 gift is contrary to the decedent's religious beliefs, or (3)
23 the Director of Public Health has adopted a rule signifying
24 his or her determination that the need for organs and tissues
25 for donation has been adequately met, then the gift of all or
26 any part of the decedent's body shall not be requested. If a
27 donation is requested, consent or refusal may be obtained
28 only from the person or persons in the highest priority class
29 available. If the hospital administrator, or his or her
30 designated representative, the designated organ procurement
31 agency, or the tissue bank is unable to obtain consent from
32 any of the persons named in items (1) through (11) of
33 subsection (b) of this Section, the decedent's body shall not
34 be used for an anatomical gift unless a valid anatomical gift

1 document was executed under this Act.

2 (d) When there is a suitable candidate for organ
3 donation, as described in subsection (a), or if consent to
4 remove organs and tissues is granted, the hospital shall
5 notify the applicable federally designated organ procurement
6 agency. The federally designated organ procurement agency
7 shall notify any tissue bank specified by the hospital of the
8 suitable candidate for tissue donation. The organ procurement
9 agency shall collaborate with all tissue banks in Illinois to
10 maximize tissue procurement in a timely manner.

11 (755 ILCS 50/5-30 new)

12 Sec. 5-30. Corneal Transplants.

13 (a) Upon request by a physician licensed to practice
14 medicine in all its branches, or by an eye bank certified by
15 the Eye Bank Association of America, and approved by the
16 coroner or county medical examiner, in any case in which a
17 patient is in need of corneal tissue for a transplant, a
18 coroner or county medical examiner who orders the performance
19 of an autopsy may provide corneal tissue of a decedent
20 whenever all of the following conditions are met:

21 (1) The decedent from whom the tissue is taken is
22 under the jurisdiction of the coroner or county medical
23 examiner.

24 (2) There has been a reasonable and good faith
25 effort by the coroner or county medical examiner or any
26 authorized individual acting for the coroner or county
27 medical examiner to contact an appropriate person as set
28 forth in subsection (b) of this Section.

29 (3) No objection by the decedent or, after the
30 decedent's death, by an appropriate person as set forth
31 in subsection (b) of this Section is known to the coroner
32 or county medical examiner or authorized individual
33 acting for the coroner or county medical examiner prior

1 to removal of the corneal tissue.

2 (4) The person designated to remove the tissue is
3 qualified to do so under this Act.

4 (5) Removal of the tissue will not interfere with
5 the subsequent course of an investigation or autopsy.

6 (6) The individual when living did not make known
7 in writing his or her objection on religious grounds to
8 the removal of his or her corneal tissue.

9 (b) Objection to the removal of corneal tissue may be
10 made known to the coroner or county medical examiner or
11 authorized individual acting for the coroner or county
12 medical examiner by the individual during his or her lifetime
13 or by the following persons, in the order of priority stated,
14 after the decedent's death:

15 (1) an individual acting as the decedent's agent
16 under a power of attorney for health care;

17 (2) the decedent's surrogate decision maker
18 identified by the attending physician in accordance with
19 the Health Care Surrogate Act;

20 (3) the guardian of the decedent's person at the
21 time of death;

22 (4) the decedent's spouse;

23 (5) any of the decedent's adult sons or daughters;

24 (6) either of the decedent's parents;

25 (7) any of the decedent's adult brothers or
26 sisters;

27 (8) any adult grandchild of the decedent;

28 (9) a close friend of the decedent;

29 (10) the guardian of the decedent's estate; or

30 (11) any other person authorized or under legal
31 obligation to dispose of the body.

32 (c) If the coroner or county medical examiner or any
33 authorized individual acting for the coroner or county
34 medical examiner has actual notice of any contrary

1 indications by the decedent or actual notice that any member
2 within the same class specified in subsection (b), paragraphs
3 (1) through (11), of this Section, in the same order of
4 priority, objects to the removal, the coroner or county
5 medical examiner shall not approve the removal of corneal
6 tissue.

7 (d) The coroner or county medical examiner or any
8 authorized individual acting for the coroner or county
9 medical examiner authorizing the removal of corneal tissue,
10 or the persons or organizations listed in subsection (a) of
11 this Section, shall not be liable in any civil or criminal
12 action for removing corneal tissue from a decedent and using
13 the same for transplant purposes if there has been compliance
14 with the provisions of this Section.

15 (755 ILCS 50/5-35 new) (was 755 ILCS 50/6)

16 Sec. 5-35 6. Delivery of Document of Gift.

17 If the gift is made by the donor to a specified donee,
18 the will, card, or other document, or an executed copy
19 thereof, may be delivered to the donee to expedite the
20 appropriate procedures immediately after death. Delivery is
21 not necessary to the validity of the gift. The will, card, or
22 other document, or an executed copy thereof, may be deposited
23 in any hospital, bank or storage facility, or registry office
24 that accepts it for safekeeping or for facilitation of
25 procedures after death. On request of any interested party
26 upon or after the donor's death, the person in possession
27 shall produce the document for examination.

28 (Source: P.A. 76-1209.)

29 (755 ILCS 50/5-40 new) (was 755 ILCS 50/7)

30 Sec. 5-40 7. Amendment or Revocation of the Gift.

31 (a) If the will, card, or other document or executed
32 copy thereof, has been delivered to a specified donee, the

1 donor may amend or revoke the gift by:

2 (1) the execution and delivery to the donee of a
3 signed statement witnessed and certified as provided in
4 Section 5-20 5 (b); or

5 (2) a signed card or document found on his person,
6 or in his effects, executed at a date subsequent to the
7 date the original gift was made and witnessed and
8 certified as provided in Section 5-20 5 (b).

9 (b) Any document of gift which has not been delivered to
10 the donee may be revoked by the donor in the manner set out
11 in subsection (a).

12 (c) Any gift made by a will may also be amended or
13 revoked in the manner provided for amendment or revocation of
14 wills or as provided in subsection (a).

15 (Source: P.A. 87-895.)

16 (755 ILCS 50/5-45 new) (was 755 ILCS 50/8)

17 Sec. 5-45 8. Rights and Duties at Death. (a) The donee
18 may accept or reject the gift. If the donee accepts a gift of
19 the entire body, he may, subject to the terms of the gift,
20 authorize embalming and the use of the body in funeral
21 services, unless a person named in subsection (b) of Section
22 5-5 3 has requested, prior to the final disposition by the
23 donee, that the remains of said body be returned to his or
24 her custody for the purpose of final disposition. Such
25 request shall be honored by the donee if the terms of the
26 gift are silent on how final disposition is to take place.
27 If the gift is of a part of the body, the donee or technician
28 designated by him upon the death of the donor and prior to
29 embalming, shall cause the part to be removed without
30 unnecessary mutilation and without undue delay in the release
31 of the body for the purposes of final disposition. After
32 removal of the part, custody of the remainder of the body
33 vests in the surviving spouse, next of kin, or other persons

1 under obligation to dispose of the body, in the order or
2 priority listed in subsection (b) of Section 5-5 3 of this
3 Act.

4 (b) The time of death shall be determined by a physician
5 who attends the donor at his death, or, if none, the
6 physician who certifies the death. The physician shall not
7 participate in the procedures for removing or transplanting a
8 part.

9 (c) A person who acts in good faith in accord with the
10 terms of this Act and the AIDS Confidentiality Act, or the
11 anatomical gift laws of another state or a foreign country,
12 is not liable for damages in any civil action or subject to
13 prosecution in any criminal proceeding for his act. Any
14 person that participates in good faith and according to the
15 usual and customary standards of medical practice in the
16 removal or transplantation of any part of a decedent's body
17 pursuant to an anatomical gift made by the decedent under
18 Section 5-20 5 of this Act or pursuant to an anatomical gift
19 made by an individual as authorized by subsection (b) of
20 Section 5-5 3 of this Act shall have immunity from liability,
21 civil, criminal, or otherwise, that might result by reason of
22 such actions. For the purpose of any proceedings, civil or
23 criminal, the validity of an anatomical gift executed
24 pursuant to Section 5-20 5 of this Act shall be presumed and
25 the good faith of any person participating in the removal or
26 transplantation of any part of a decedent's body pursuant to
27 an anatomical gift made by the decedent or by another
28 individual authorized by the Act shall be presumed.

29 (d) This Act is subject to the provisions of "An Act to
30 revise the law in relation to coroners", approved February 6,
31 1874, as now or hereafter amended, to the laws of this State
32 prescribing powers and duties with respect to autopsies, and
33 to the statutes, rules, and regulations of this State with
34 respect to the transportation and disposition of deceased

1 human bodies.

2 (e) If the donee is provided information, or determines
 3 through independent examination, that there is evidence that
 4 the gift was exposed to the human immunodeficiency virus
 5 (HIV) or any other identified causative agent of acquired
 6 immunodeficiency syndrome (AIDS), the donee may reject the
 7 gift and shall treat the information and examination results
 8 as a confidential medical record; the donee may disclose only
 9 the results confirming HIV exposure, and only to the
 10 physician of the deceased donor. The donor's physician shall
 11 determine whether the person who executed the gift should be
 12 notified of the confirmed positive test result.

13 (Source: P.A. 85-1209.)

14 (755 ILCS 50/5-50 new) (was 755 ILCS 50/8.1)

15 Sec. 5-50 ~~8-1~~. Payment for gift. (a) Except as provided
 16 in subsection (b), any person who knowingly pays or offers to
 17 pay any financial consideration to a donor or to any of the
 18 persons listed in subsection (b) of Section 5-5 3 for making
 19 or consenting to an anatomical gift shall be guilty of a
 20 Class A misdemeanor for the first conviction and a Class 4
 21 felony for subsequent convictions.

22 (b) This Section does not prohibit reimbursement for
 23 reasonable costs associated with the removal, storage or
 24 transportation of a human body or part thereof pursuant to an
 25 anatomical gift executed pursuant to this Act.

26 (Source: P.A. 85-191.)

27 (755 ILCS 50/9 rep.)

28 (755 ILCS 50/11 rep.)

29 Section 55. The Uniform Anatomical Gift Act is amended
 30 by repealing Sections 9 and 11.

31 (755 ILCS 55/Act rep.)

1 Section 60. The Illinois Corneal Transplant Act is
2 repealed.

3 (755 ILCS 60/Act rep.)

4 Section 65. The Organ Donation Request Act is repealed.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

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20 ILCS 2310/2310-330 was 20 ILCS 2310/55.46

105 ILCS 5/27-23.5

210 ILCS 85/6.16

210 ILCS 85/10.4 from Ch. 111 1/2, par. 151.4

410 ILCS 305/7 from Ch. 111 1/2, par. 7307

625 ILCS 5/6-110 from Ch. 95 1/2, par. 6-110

625 ILCS 5/12-215 from Ch. 95 1/2, par. 12-215

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755 ILCS 45/4-7 from Ch. 110 1/2, par. 804-7

755 ILCS 45/4-10 from Ch. 110 1/2, par. 804-10

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755 ILCS 50/1-1 new was 755 ILCS 50/1

755 ILCS 50/1-5 new

755 ILCS 50/1-10 new was 755 ILCS 50/2

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755 ILCS 55/Act rep.

755 ILCS 60/Act rep.